

REMARKS

By this Amendment, no claims have been amended, no claims have been canceled and no new claims have been added to the application. Accordingly, claims 3-7, 9, 10, 12, and 19-22 are pending in the application. No new matter has been added.

In the prior Office Action, the Examiner withdrew the rejections under 35 U.S.C. §§112, 102 and 103 set forth in the Office Action dated January 2, 2008 and allowed claim 6. However, the Examiner issued new grounds for rejection with respect to claims 3-5, 7, 9-10, 12 and 19-22, and made the rejection thereof final. Specifically, the Examiner rejected said claims under 35 U.S.C. §103(a) as being unpatentable over Brindle, U.S. Pat. 5,405,666. For the reasons set forth below, applicant respectfully requests reconsideration of the claim rejections.

The Examiner contends that Brindle discloses a condom comprising a finishing powder which comprises a particulate, substantially water-insoluble, inorganic compound having a substantially spherical particle morphology. Applicant respectfully submits that the Examiner is mistaken. Brindle does not teach a finishing powder as claimed in the instant application. On the contrary, Brindle teaches, at col. 1, lines 43-49, that (bold emphasis added):

Conventionally, dry slip is achieved by the use of powder lubricants such as magnesium carbonate, starch and talk. However, if the hands are damp, **the use of a powder is counter-productive** and may actually inhibit donning. Furthermore, in surgery, there is a risk of loose powder contaminating the surgical field. These materials can also cause irritation and may be allergenic.

Brindle clearly teaches away from the use of powders in connection with latex articles such as gloves and condoms. Brindle instead teaches that slip properties can be achieved by dispersing substantially spherical micro-particles into a binder to form a thin film coating on the skin-contacting surface of the article and then applying a surfactant or long chain fatty amine to the binder enveloped micro-particles (see col. 3, lines 13-24). Thus, contrary to the Examiner's contentions, Brindle does not disclose a condom comprising a dry finishing powder as claimed. The micro-particles in Brindle are not in powder form (i.e., discrete particles that are free to move about with respect to the

condom). The particles in the article according to Brindle are enveloped in a binder, which fixes them in relation to the article, and are coated with a damp surfactant or long-chain fatty amine. Thus, Brindle teaches a condom comprising a bonded, lubricating film coating, and not a condom comprising a finishing powder as claimed. See, e.g., claim 1 of Brindle, which expressly disclaims the use of powder lubricants (bold emphasis added):

A flexible article displaying slip properties with respect to damp and dry mammalian tissue **without the use of powder lubricants** comprising:
a substrate layer comprising an elastomeric material, said layer having a wearer-contacting surface, said surface having a dry slip conferring **coating** bonded to said elastomeric material said **coating** comprising (i) a binder and (ii) absorbent substantially nonaggregated microparticles, said microparticles having an average diameter within the range from about 4 to about 20 microns, an oil absorption higher than about 80 g of oil per 100 g of said microparticles, **said microparticles being enveloped by said binder** but partially protruding therefrom thus imparting to said surface a microroughened appearance; and
a damp slip-conferring amount of a surfactant applied to said wearer-contacting surface.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge the same to Deposit Account No. 18-0160, Order No. AAT-15784.

Application No. 10/522,634
Amendment dated September 26, 2008
Reply to Office action of June 27, 2008

Respectfully submitted,

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